IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

WP(C).No. 34202 of 2006(V)

AGAINST THE ORDER DATED 28/09/2006 IN IA 881/2006 IN IA 682/06 IN AS.33/2006 of SUB COURT, PAYYANNUR

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PETITIONER:

KUNHIRAMAN, AGED 50,
S/O.KOOVERIKKARAN KUNHAMBU,
KOOVERI AMSOM DESOM, THALIPARAMBA TALUK,
KANNUR (DT).

BY ADV. SRI.PROMY KAPRAKKATT
SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH
SMT.P.K.BEENA

RESPONDENTS:

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1. KOOVERIKARATHI CHEEYYAYIKUTTY,
AGED 60 YEARS, D/O.MATHI, KOOVERI AMSOM DESOM,
THALIPARAMBA TALUK, KANNUR (DT).

2. KOOVERIKARAN BALAKRISHNAN,
AGED 32 YEARS, S/O.CHEEYYAYIKUTTY,
KOOVERI AMSOM DESOM, THALIPARAMBA TALUK,
KANNUR DT.

3. PADAVIL PHALGUNAN,
AGED 42 YEARS, S/O.KUNHAMBU,
KOOVERI AMSOM DESOM, THALIPARAMBA TALUK,
KANNUR (DT).

4. PADAVIL NARAYANAN, AGED 56 YEARS,
S/O.KOOVERIKKARAN KUNHAMBU, KOOVERI AMSOM DESOM,
THALIPARAMBA TALUK, KANNUR (DT).

5. MEENAKSHI, AGED 54 YEARS,
D/O.KOOVERIKKARAN KUNHAMBU, KOOVERI AMSOM DESOM,
THALIPARAMBA TALUK, KANNUR (DT).

6. PADMANABHAN, AGED 48 YEARS,
S/O.KOOVERIKKARAN KUNHAMBU, KOOVERI AMSOM DESOM,
THALIPARAMBA TALUK, KANNUR (DT).

7. GOVINDAN, AGED 46 YEARS, S/O.KOOVERIKKARAN KUNHAMBU
KOOVERI AMSOM, DESOM, THALIPARAMBA TALUK,
KANNUR

8. KUNHAMBU, AGED 44 YEARS,S/O.KOOVERIKKARAN KUNHAMBU
KOOVERI AMSOM, DESOM, THALIPARAMBA TALUK,
KANNUR

9. PADAVIL DASARADHAN AGED 38 YEARS, KOOVERI AMSOM
DESOM, THALIPARAMBA TALUK, KANNUR

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 34202 OF 2006

Dated 21st December 2006

JUDGMENT

Petitioner is third appellant in A.S.33/06 on the file of Sub court, Payyannur. Appeal was filed challenging the decree and judgment passed by Munsiff, Taliparamba in O.S.196/2000 dismissing the suit claiming decree for permanent prohibitory injunction. In the appeal appellant filed an application for temporary injunction. Under Ext.P6 order, learned Sub Judge directed parties to maintain status quo as on the date of decree and judgment passed by trial court till disposal of appeal. This petition was filed under Article 227 of Constitution of India contending that petitioner was not heard before passing Ext.P6 order. When suit was dismissed on merits and appeal was filed, learned Sub Judge is expected to pass interim order in favour of plaintiff, only after finding that prima facie there the findings of trial court is not correct. The order shows that even without considering that aspect,

learned Sub Judge has directed the parties to maintain status quo as on the date of the decree. Still appellant is challenging the order contending that the order was passed without hearing him. In such circumstances, Ext.P6 order is quashed. Ext.P6 order directing the parties to maintain status quo as on the date of judgment is vacated. Learned Sub Judge is directed to pass appropriate order either in the application or in the appeal.

Writ petition is disposed of.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.